

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TECHNOLOGY LICENSING CORPORATION,	)	
a Florida corporation,	)	
	)	
Plaintiff,	)	C.A. No. 06-515 (JJF)
	)	
v.	)	
	)	
RATIONAL COOKING SYSTEMS, INC., a	)	
Delaware corporation,	)	
	)	
Defendant.	)	

**SUPPLEMENTAL DECLARATION OF RORY J. RADDING**  
**IN SUPPORT OF TLC'S MOTION FOR ENTRY OF A PROTECTIVE ORDER**

I, RORY J. RADDING, hereby declare as follows:

1. I am a member of the law firm of Morrison & Foerster LLP and lead trial counsel for plaintiff, Technology Licensing Corporation ("TLC"), in the above captioned matter. I have been admitted *pro hac vice* in this matter. I submit this supplemental declaration in support of TLC's motion for entry of a protective order. If called to testify, I could and would attest to the matters set forth herein from my own personal knowledge.


2. I re-declare and reaffirm my Declaration dated February 6, 2007.

3. On February 19, 2007, subsequent to TLC's filing this motion and on the eve of the deadline for Rational's opposition, counsel for Rational contacted counsel for TLC, and, for the first time, offered to allow Bernard Koether to receive summaries of confidential information. This offer, however, was conditioned on TLC's agreeing to permit one representative of Rational and one representative of Rational AG to receive summaries of TLC's confidential information.

4. Exhibit A is a true and correct copy of the e-mail correspondence between counsel discussing the substance of the February 19th call.

5. Exhibit B is a true and correct copy of FAST's executive team's biographies, as displayed on FAST's current website, printed on February 28, 2007.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 28th day of February, 2007, in New York, New York.



Rory J. Radding

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on February 28, 2007, I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing(s) to the following:

Frederick L. Cottrell, III  
Richards, Layton & Finger

I also certify that copies were caused to be served on February 28, 2007 upon the following in the manner indicated:

**BY HAND**

Frederick L. Cottrell, III  
Richards, Layton & Finger  
One Rodney Square  
P.O. Box 551  
Wilmington, DE 19899

**BY FEDERAL EXPRESS**

Edgar H. Haug  
Porter F. Fleming  
Frommer Lawrence & Haug LLP  
745 Fifth Avenue  
New York, NY 10151

*/s/ Karen Jacobs Loudon*

---

Karen Jacobs Loudon  
klouden@mnat.com

# EXHIBIT A

**From:** Radding, Rory J.  
**Sent:** Monday, February 19, 2007 12:41 PM  
**To:** 'ehaug@flhlaw.com'; 'PFleming@flhlaw.com'  
**Cc:** Hough, James E.; McFarland, Sally A.  
**Subject:** Today's conference call

Dear Ed and Porter,

I believe our call today was productive.

1. I will await receipt of your opposition and will consider your position on the Radding issues.

2. Also I await your decision on the inclusion of a FAST employee on the protective order in addition to Ben Koether since you would like to include Rational AG on the protective order.

3. I will check on the FAST controller and whether the prototype exists. I will also see whether we need a Rational controller and /or oven.

4. As I mentioned I need to check with my associates on communications between MoFo / Radding and TLC between April and August 2006 concerning your suggestion of limiting production/privilege log to only those communications between the period between April and August 2006 for the MoFo and Radding subpoenas. I think your suggestion should be acceptable, but I will let you know tomorrow. Please confirm that my understanding of your suggestion is correct.

5. Finally, I want to confirm my understanding that you will be producing Rational/Rational AG documents early next week. Regards, Rory

-----  
Sent from my BlackBerry Wireless Handheld

**From:** Radding, Rory J.  
**Sent:** Tuesday, February 20, 2007 1:19 PM  
**To:** 'ehaug@flhlaw.com'; 'PFleming@flhlaw.com'  
**Cc:** Hough, James E.; McFarland, Sally A.; Reiner, Colette A.; Rella, Angela T.  
**Subject:** RE: Today's conference call

Ed,

In addition to my email below, after discussions with my associates and after further considering your requests, I have the following additional clarification points and questions:

Concerning #2 below - During our conversation yesterday you stated that Rational AG would like to be able to have summaries of confidential information produced in this litigation. It would assist us in our consideration of your proposal if you could tell us the purposes for which Rational AG intends to use this information. If Rational AG's access to the summaries of confidential information is purely to assist in the defense of this action, TLC would be willing to allow Rational AG to review the confidential information (provided Rational permits a FAST representative to do the same).

Concerning #3 below - For what purpose do you need the FAST controller? I am checking on the prototype. Also I have been advised that our document requests already would cover production of a SCC controller/ oven. We look forward to its production.

Concerning #4 below - As you know, our motion seeks to limit responses to the MoFo, Radding, and Ceste subpoenas to documents prior to April 2006 on the basis that April 2006 is when our representation regarding this litigation began. Our understanding of your proposal on this issue is that you will agree to such a limit if we agree to produce non-privileged documents (and log privileged documents) concerning communications between MoFo / Radding and TLC / FAST from the period April to August 2006. As most of these documents will be privileged, can you clarify why you are seeking this information? While, if necessary, we are not opposed to providing it, but it is our opinion (and I think you concur) that you will receive this information in the privilege logs provided with our production from TLC and our response to the FAST subpoena. Before we can consider to undertake the burden of reviewing and logging the same information twice, we propose that you review our production and privilege logs from TLC and FAST. If, after such a review, you still believe that communications with TLC / FAST from the files of MoFo and Radding are still necessary, we can revisit the issue.

I look forward to hearing from you.  
Rory

Rory J. Radding  
Partner  
Morrison & Foerster LLP  
1290 Avenue of the Americas  
New York, New York 10104-0050  
fon:212-468-8146  
fax:212-468-7900  
email:mailto:rradding@mofo.com

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Sent from my BlackBerry Wireless Handheld

**From:** Fleming, Porter [PFleming@flhlaw.com]  
**Sent:** Tuesday, February 20, 2007 3:02 PM  
**To:** Radding, Rory J.  
**Cc:** Hough, James E.; McFarland, Sally A.; Haug, Ed  
**Subject:** RE: Today's conference call  
**Sensitivity:** Private

Dear Rory,

Thank you for your summary.

We have a different view as to the telephone conference. Despite our efforts to propose reasonable compromises on certain of the issues raised in your motion, you refused to except any of our proposals, added further conditions (e.g. FAST as a party under the protective order) and insisted that we brief all the issues. You stated that when TLC filed its reply, you would decide/respond to our offers.

With that said, we do not agree with certain of your points below. We do not understand your point with respect to paragraph 4. We were willing to limit the Radding and Morrison & Foerster subpoenas to August 2006, the date the original complaint was filed. There was further discussion that you would get back to us regarding attorney client and/or privilege communications that may have existed and would be have to be logged between April and August 2006.

Further in paragraph 5, you state that Rational AG will be producing documents next week. We stated that RCSI will be producing documents next week. The issues regarding Rational AG have not been resolved. We do not yet have your agreement as to further/continuing TLC requests directed to Rational AG. Despite this fact, we did discuss producing certain responsive documents outlined in your January 26<sup>th</sup> letter. Obviously to do so, will require a trip to Germany, etc. That can not be accomplished by next week.

Regards,

Porter

Porter F. Fleming, Esq.  
Frommer Lawrence & Haug LLP  
745 Fifth Avenue  
New York, New York 10151

Tel: (212) 588-0800  
Fax: (212) 588-0500

[pfleming@FLHlaw.com](mailto:pfleming@FLHlaw.com)

---

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For information about this legend, go to  
<http://www.mofo.com/Circular230.html>

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**From:** Radding, Rory J.  
**Sent:** Tuesday, February 20, 2007 5:20 PM  
**To:** 'Fleming, Porter'  
**Cc:** Hough, James E.; McFarland, Sally A.; 'Haug, Ed'  
**Subject:** RE: Today's conference call  
**Sensitivity:** Private

Dear Porter,

I guess we do have a different view of the telephone conference.

You state that we refused to accept any of your proposals, however, both my email of yesterday confirming the call and my earlier email today reflect what we thought was a continuing dialog towards a compromise on these issues. It appears you may not have seen my email (reprinted below) which I sent you about 2 hours before you sent your email. It included my response concerning paragraph 4 and asked for some clarification from you. It also addressed the issue of adding FAST and Rational AG to the protective order.

Concerning paragraph 5, I was referring to the documents Ed said he would produce in response to my January 26th letter. I was under the impression that Ed said the documents in categories nos.1,2,4,6,7,8 and 9 in my January 26 letter would be produced next week. If this is incorrect, when will the Rational AG documents be produced? Concerning TLC's "further/continuing" requests to Rational AG, we cannot agree to anything until we have the chance to review the documents Rational AG produces.

Finally, could you clarify exactly what you are and are not willing to do with respect to Rational AG documents (in terms of timing, quantity, and categories of documents to be produced)? We appreciate your offer to voluntarily produce Rational AG documents, but if we have to wait until the end of discovery to get this voluntary production that does not seem to move this case along.

Rory

Rory J. Radding  
Partner  
Morrison & Foerster LLP  
1290 Avenue of the Americas  
New York, New York 10104-0050  
fon:212-468-8146  
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Partner

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# EXHIBIT B



**(FAST)**

**The Time  
Is Right**

CORPORATE HOT NEWS PRODUCTS TEAM FAST SUPPORT OEM

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people

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- ▶ [International Sales](#)
- ▶ [Sales](#)
- ▶ [Supply Chain Management](#)

## EXECUTIVE

### BERNARD G. KOETHER II, Chairman

*Ben is the chairman and founder of Food Automation – Service Techniques, Inc. (FAST). From its beginning in his garage over thirty-five years ago, Ben has been the driving force behind FAST's success today as a leading manufacturing of appliance controls exclusively for the food service industry. Throughout his career, he has earned the reputation as a pioneer of process controls for multi-unit restaurants and currently holds more than 20 U.S. and European patents.*



*Ben is a former director of the American Electronics Association and his entrepreneurial achievements have been featured in Forbes Magazine. He spends his free time serving as chairman and founder of the Glacier Society ([www.glaciersociety.org](http://www.glaciersociety.org)), a dedicated group of veterans, polar explorers, and volunteers. Their mission is to restore the icebreaker Glacier, the largest icebreaker of her time and the flagship of the Admiral Byrd, for use as an operational museum and school ship in the Northeast.*

*Ben earned a B.A. degree from Brown University and an M.B.A. in finance from Columbia University, and served as a naval navigator and scientific officer for the U.S. Navy aboard the U.S.S. Glacier.*

Phone: 203-380-3444 | Fax: 203-377-8187 | [bkoether@glaciersociety.org](mailto:bkoether@glaciersociety.org)

### GEORGE F. KOETHER, President and CEO

*George, named president and chief executive officer of FAST in May of 2006, has been instrumental in the growth of FAST and continues to lead the company through clear focus and accountability. Prior to his current position, he served as president and COO beginning in 2002 after 7 years as vice president of sales and marketing. He began his career with FAST in 1993 as the director of international operations with offices in the United Kingdom, South Africa, and China.*



*George has over 15 years experience in the global foodservice industry. Prior to joining FAST, he lead a start up import distribution company in England and South Africa which grew at an average annual rate of 55%, consistently*

generating average annual net profits in excess of 8%.

George is a board member of SCK and is ServSafe accredited by the National Restaurant Association. He received a B.A. in business from Oglethorpe University and studied business at Northwestern University Kellogg School of Management and Stanford University.

Phone: 203-380-3446 | Fax: 203-377-8187 | [gkoether@fastinc.com](mailto:gkoether@fastinc.com)

**LAWRENCE MUCHERINO (CPA), Vice President of Finance**

Phone: 203-380-3477 | Fax: 203-377-8187 | [lmucherino@fastinc.com](mailto:lmucherino@fastinc.com)

**REZA KHANI, Vice President Operations**

Reza is vice president of operations and is responsible for all manufacturing operations and supply chain management activities. Reza brings to FAST over 20 years experience in engineering, manufacturing operations and supply chain management in high technology industries. His leadership has resulted in cost reductions, increased shareholder value, and improved customer satisfaction.



Prior to joining FAST in October 2002, Reza held various engineering and operations management positions at PhotonEx Corporation, Schneider Electric, Modicon, EMC2, Magna Computers, and GCA Corporation.

Reza holds a B.S. in Electrical Engineering from the University of Massachusetts and an M.B.A. from Southern New Hampshire University.

Phone: 203-380-3496 | Fax: 203-377-8187 | [rkhani@fastinc.com](mailto:rkhani@fastinc.com)

**WILLIAM FLYNN, Vice President of Engineering**

Bill Flynn was promoted to the Vice President of Engineering in August 2004 and is responsible for all electrical, software, and mechanical design efforts, as well as documentation control and regulatory approvals. He joined FAST in October 2002 as director of engineering and has over 20 years experience in the various fields of engineering, including diverse areas such as medical, broadcast video, and industrial equipment. Prior to joining FAST, he held various senior leadership positions at companies that were all top-tier suppliers in their fields.



Bill received his B.S. in Electrical Engineering from the Worcester Polytechnic Institute and an M.S.C.S. from Rensselaer Polytechnic Institute.

Phone: 203-380-3485 | Fax: 203-377-8187 | [wflynn@fastinc.com](mailto:wflynn@fastinc.com)

**PATRICIA M. BALKONIS, Director of Human Resources**


Pat is the director of human resources and is responsible for developing and implementing human resource policies and



*programs, including many proactive training and development initiatives. Among one of the longest-standing members of the FAST team, Pat joined the company in 1975 and has been active in the transition of FAST over the years from an entrepreneurial-driven company to a thriving, international, and multi-million dollar corporation.*

*Pat serves on the board of directors of the non-profit Christian Counseling Center and actively participates in the Valley Interfaith Caregivers, a non-denominational organization that provides homebound assistance and companionship to the elderly and other needy persons.*

*She earned her B.A. in History from the University of Illinois at Urbana-Champaign, completed Paralegal Studies at Fairfield University, and is certified as a Professional in Human Resources.*

Phone: 203-380-3449 | Fax: 203-377-5515 |  [pbalkonis@fastinc.com](mailto:pbalkonis@fastinc.com)



Vednesday, February 28, 2007

**1-800-FASTRON**

Questions or comments: [webmaster@fastinc.com](mailto:webmaster@fastinc.com)

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Service Techniques, Inc.

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